



DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2020-0096]

Petition for Waiver of Compliance

Under part 211 of title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a letter dated December 14, 2020, Brightline West (Brightline) petitioned the Federal Railroad Administration (FRA) for a waiver from certain provisions of the Federal railroad safety regulations contained at 49 CFR parts 221, 229, 231, and 238, and an exemption from certain requirements of chapter 203, title 49 of the United States Code (U.S.C). FRA assigned the petition Docket Number FRA-2020-0096.

Brightline's requests for relief relate to its planned operation of new high-speed trainsets on a new high-speed rail line between Victorville, California, and Las Vegas, Nevada. Brightline indicates that the fully electric trainsets will be capable of operating up to 186 miles per hour. Further, Brightline indicates that Siemens Mobility will manufacture eight trainsets (referred to as "Valero Trainsets"), and Brightline will have the option of ordering an additional twelve. Manufacturing of the Valero Trainsets is scheduled to start in January 2022 in the Siemens plant in Krefeld, Germany, with a planned delivery of the trains to the United States for testing in April 2023. The projected start of passenger service is March 2024.

According to Brightline, the subject rail corridor will be built within the right-of-way of Interstate Highway 15 and will be electrified, thus ensuring the rail line can operate in an energy efficient and sustainable manner. Because the infrastructure will be built and operated as a dedicated right-of way, Brightline further indicates that no mixed traffic with Tier I or II passenger trains will occur and the rail corridor will have no

public highway-rail nor rail-rail at-grade crossings. FRA also understands that no freight traffic will be moved on the track.

Brightline indicates that the Valero Trainsets will be built to FRA's existing Tier III passenger equipment safety standards, codified under 49 CFR part 238, subpart H, and will meet certain consensus recommendations from the Railroad Safety Advisory Committee (RSAC) to FRA related to high-speed passenger equipment (those consensus recommendations to FRA are attached as Annex A to Brightline's waiver petition). Accordingly, Brightline's waiver request asks FRA to waive the existing applicable regulatory requirements of 49 CFR parts 221, 229, 231, and 238, and instead apply to the Valero Trainsets, the alternative standards outlined in the referenced RSAC recommendations.

Brightline also specifically requests that FRA waive the requirements of 49 CFR 238.112 related to door emergency egress and rescue access systems and approve an alternative solution proposed in its waiver request.

Finally, Brightline requests that FRA exercise its authority under 49 U.S.C. 20306 (Section 20306) to exempt the Valero Trainsets from the requirement of 49 U.S.C. 20302 (Section 20302), which mandates that railroad vehicles be equipped with (1) secure sill steps and an efficient hand brake; (2) secure grab irons or handholds on the vehicle's ends and sides for greater security to individuals coupling and uncoupling the vehicle; and (3) the standard height of drawbars. *See* 49 U.S.C. 20302(a)(1)(B), (a)(2), and (a)(3).

In support of its request for relief, Brightline asserts that the Valero Trainsets have specific technologically advanced features that justify an exemption from Section 20302. First, Brightline notes that individual units in the trainset cannot be uncoupled except within a maintenance facility, protected by blue signal rules, and under the direction of trained maintenance personnel. This eliminates the need for train crews to perform traditional "switching" operations. Second, for the trainset's ends, which may be coupled

to another trainset during regular service in double traction mode or during an emergency rescue operation, Brightline indicates there is a fully automatic coupler with a remote-controlled uncoupling mechanism in the operating cab, providing electric and pneumatic connections, making uncoupling levers unnecessary. Third, as it is not required for a person to step between the vehicle's end to connect jumper cables or air hoses, end handholds are not needed. Finally, because there are operating cabs on both ends of the trainset, "reverse moves" are performed with a conductor or brakeman riding inside the opposite, or non-controlling, cab and not riding the exterior of the trainset.

Section 20306 authorizes FRA to exempt rail equipment from the requirements of 49 U.S.C. chapter 203, including Section 20302, when those requirements "preclude the development or implementation of more efficient railroad transportation equipment or other transportation innovations under existing law." Section 20306 requires FRA to base any such exemption on either (1) findings developed at a hearing; or (2) an agreement between labor and the developer of the equipment.

As Brightline indicates in its Petition, FRA has previously held Section 20306 hearings for equipment substantially similar to the Valero Trainsets.¹ The equipment was also proposed to be operated in substantially similar operating environments to that which Brightline proposes in this docket.² Accordingly, Brightline asserts that no new information on the Valero Trainset's safety appliances could be gathered from another public hearing. As a result, FRA finds that holding a public hearing under Section 20306 in response to Brightline's current exemption request is not necessary and FRA intends to rely on the findings from these previous hearings when considering Brightline's current exemption request.

A copy of the petition, as well as any written communications concerning the

¹ See FRA Docket Nos. FRA-2019-0066 (Amtrak) and FRA-2019-0068 (Texas Central Railroad (*see also* 85 FR 69700 (Nov. 3, 2020)). Both FRA dockets are available for review on www.regulations.gov.

² *Id.*

petition, is available for review online at www.regulations.gov.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. Although, for the reasons discussed above, FRA does not anticipate scheduling a public hearing, if any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- Web site: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 202-493-2251.
- Mail: Docket Operations Facility, U.S. Department of Transportation (DOT), 1200 New Jersey Ave., SE, W12-140, Washington, DC 20590.

Communications received by **[INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at <https://www.transportation.gov/privacy>. See also <https://www.regulations.gov/privacyNotice> for the privacy notice of regulations.gov.

Issued in Washington, DC.

John Karl Alexy,

Associate Administrator for Railroad Safety,

Chief Safety Officer.

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